

UNITED STATES OF MICHIGAN
BEFORE THE NATIONAL LABOR RELATIONS BOARD

**AURLP HOLDINGS, LLC d/b/a
ARROW UNIFORM**

Employer

Case: 07-RC-091307

-Vs-

LOCAL 51, INTERNATIONAL BROTHERHOOD OF TEAMSTERS (IBT),

Petitioner.

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**PETITIONER TEAMSTER LOCAL 51'S EXCEPTIONS TO THE HEARING OFFICER'S FEBRUARY 14,
2013 REPORT AND RECOMMENDATIONS ON DETERMINATIVE CHALLENGED BALLOT AND
BRIEF IN SUPPORT**

On December 14, 2012, a hearing was held concerning the eligibility of one employee Dennis G. King. On November 26, 2012 an election was held concerning this stipulated unit.

All full-time and regular part-time relay drivers employed by the Employer, at and out of, its facility located at 6400 Monroe Blvd., Taylor, Michigan; but excluding all office clerical employees, professional employees, technical employees, managerial employees, confidential employees, route sales representatives, and guards and supervisors as defined in the Act.

Ten individuals voted, five for the petitioner, four against with one challenged ballot that make it determinative. In his Preface at page 2 of his report, the hearing officer states "This report, unless otherwise noted, based on a composite of the Credited aspects of the Testimony of all witnesses." Petitioner submits that the challenged individual Dennis King did not appear at the hearing, but instead two (2) Management representatives offered testimony concerning his employment and duties that were not credible or sincere. Instead they framed their testimony in a manner more beneficial to the employer and often said "I don't know" when cross-examined by Petitioner's Attorney so as not as provide beneficial information to the Union.

The unit that Local 51 seeks to represent are known as relay drivers. Their job that is 99% of their time is to transport product (usually uniform and clothes for laborers) between the employees production facility in Taylor Michigan to branches in Ohio, Pennsylvania Indiana and Michigan. The relay drivers transport the clean product to branches indicated above, and return with soiled clothing to be washed. Once the clean clothing is transported to the branches in those four (4) states, employees known as route sales representatives (RSR's) deliver to customers.

Previously I stated 99% of the duties of Relay drivers is to deliver clean product and return with soiled product. They may while driving to a particular branch, also carry, a computer, or the front end of a vehicle, but there is no confusion, they are employed to transport clean and soiled product.

The relay drivers and there is 10-13 of them make deliveries in large semi-trucks. They are required to maintain a CDL. They deliver products mainly in large heavy bins in trucks that carry 32 or 16 bins depending on their size. The drivers have specific routes, work a regular scheduled shift and work a forty (40) hour workweek with some overtime. They must show up for work, receive benefits (health, 401 K). They start at \$17 an hour.

Alternatively, the challenged employee, Dennis King, works minimally, on an on-call basis, he can refuse to come in and not be charged with an absence or any repercussions. He has been employed since 2006 and still only makes \$12 an hour. The relay drivers must show for work and absences are counted against them.

A review of his wage records for 2011 and 2012 that were exhibits at the hearing show how minimal he works, often one (1) day a week or some weeks not at all. Additionally, his time is spent in different departments. As much in the maintenance department as in the driving department though he may perform some transport of clothes, it is a limited basis, but no more than other departments he works in.

Additionally, the time cards for 2012 (E-7) in some instances earmark, which departments and supervisors he is working for. As testimony showed at the hearing, when certain names are put on the time cards it means that is the manager that Mr. King is working for. Mike's name written on the time card for the week ending 6-09-2012 indicates Mr. King was doing some work for him in the garage and not performing relay work. On the same page he worked for Joe the Maintenance Manager again not performing relay work.

From the wealth of facts presented at the hearing it is clear there is a wide crevice between the duties and functions of the full time relay drivers from Mr. King's. To characterize Mr. King as a relay driver similar to the full time relay drivers with just lesser hours is quite misleading. Mr. King is called infrequently to perform tasks for all departments. He does not substitute for the full time drivers. They work 100% of the time delivering and returning product, with the occasional machinery thrown into their truck. If Mr. King does work, it could be to perform different functions and work for various departments. He does not meet the criteria necessary to share the same community of interest with the relay drivers and should not be counted in the present election.

In his report, the hearing officer calculated King as working an average of 5.67 hours per week from January 1, 2012 to October 20, 2012 and *.27 hours per week the Quarter preceding the election. The petitioner submits King is a "Gopher." Meant to do small miscellaneous jobs and functions for any department necessary. The Union submits he is not a regular part-time relay employee. In addition, the Union submits he does not share the same community of interest with regular full time relay drivers.

Community of interest determinations require an examination of a multitude of factors, including degree of functional interchange, common supervision, nature of employee skills and functions, interchangeability and contact among employees, general working conditions, and fringe benefits. See, for example, **Publix Super Market, Inc.**, 3434 NLRB 1023(2004); **United Operations Inc.**, 338 NLRB 123 (2002); **Trumbull Memorial Hospital**, 338 NLRB 917 (2003); and **Brand Precision Services**, 313 NLRB 657 (1994).

After citing this general black letter Law, the hearing officer cites similarities that really do not indicate a community of interest (i.e. same supervision and same job functions, transporting materials to various branches). The Union takes issue with the second factor. Saying King delivers product as the relay drivers do would be saying the undersigned and Phil Mickelson are both golfers (The only thing we share is being left-handed).

The regular relay drivers have specific routes of long distances to drive, a large amount of product. If a small delivery is necessary, a hot one King may take it. More importantly for this analysis is the differences in benefits that eliminates any community of interest. The hearing officer cites the difference in benefits at page seven (7) of his report, so he can get to the conclusion he wants. Petitioner submits these differences are essential. Issues in bargaining, absences, discipline, benefits, health care, wages, route selection, seniority is distinguishable. The regular full-time relay employees will have a different objective to obtain those benefits than King will. Their jobs require being compliant with DOT rules not shared by King. On benefits, working improvements and wages their outlook is identical, but very different from that of King.

The differences of the relay drivers to that of a part-time gopher is monumental. The differences cited by the hearing officer should have led to a different conclusion. Often Board Law favors inclusion over exclusion, but not here where the community of interest is not shared. Dennis King should be excluded from participating in this unit.

**Very Truly Yours,
/s/ Kevin O'Neill
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KJO/ka

Proof of Service

Kelly Ankony states that on February 26, 2013 did mail a copy of Local 51's Exceptions to the Regional Director for the seventh region and to the employer Attorney Craig Lange by regular mail.

/s/ Kelly Ankony
Kelly Ankony